

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF PUTNAM

THE PUTNAM COUNTY HUMANE SOCIETY,

Petitioner,

-against-

LINDA NELSON,

Respondent.

Index No. 2781/07

Date filed:

NOTICE OF PETITION

PUTNAM COUNTY  
CLERK

2007 OCT 30 PM 2:55

PLEASE TAKE NOTICE, that upon the annexed Petition of SUSAN MILLER, Treasurer of the PUTNAM COUNTY HUMANE SOCIETY, duly sworn to on the      Day of October, 07, and upon all of the proceedings heretofore had herein, Petitioner will move this Court for the relief set forth below.

RELIEF REQUESTED: An Order pursuant to Agriculture & Markets Law Section 373, directing Respondent to post security in the sum of \$64,000, for payment of Petitioner's costs in caring for eleven canines seized from Respondent by the Putnam County Sheriff's Department and placed in the custody of Petitioner by the Sheriff's Department; and Granting such other and further relief as the Court may deem just and proper.

DATE RETURNABLE: November 15, 09.

TIME: 9:30 a.m.

PLACE: Putnam County Supreme Court, 40 Gleneida Avenue, Carmel, New York

PLEASE TAKE NOTICE, that pursuant to CPLR 2214(b) answering papers are to be served seven days prior to the return date hereof.

Yours, etc.

  
DAVID BERNHEIM

Dated: Croton on Hudson, NY  
October 29, 07

TO:  
Calendar Clerk  
Supreme Court, Putnam County  
40 Glencida Avenue  
Carmel, New York 10512

Feerick Lynch MacCartney  
Attorneys for Respondent  
96 South Broadway  
South Nyack, New York 10960

Linda Nelson  
1241 Peekskill Hollow Road  
Kent, New York 10512

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF PUTNAM

THE PUTNAM COUNTY HUMANE SOCIETY,

Petitioner,

**PETITION**

-against-

LINDA NELSON,

Respondent.

PUTNAM COUNTY  
CLERK

2007 OCT 30 PM 2:55

Petitioner, Susan Miller, for her verified Petition, alleges as follows:

1. Petitioner is the Treasurer of the Putnam County Humane Society, (hereinafter "the Humane Society" and a member of the Board of Directors of the Humane Society. Petitioner is authorized by the Board of Directors of the Society to submit this Petition to the Supreme Court of the State of New York, Putnam County.
2. The instant Petition is based on Petitioner's actual knowledge and on information and belief, the source of Petitioner's belief being the files and records maintained by the Society. The Society's headquarters and shelter are located in Carmel, New York
3. The Putnam County Humane Society is a not for profit corporation organized pursuant to the laws of the State of New York. The Society operates a shelter caring for abused, neglected, abandoned and lost animals in the County of Putnam. It provides veterinary care for those animals who are sick or injured. It never kills a healthy animal.
4. The Humane Society is a charity whose operations are carried out by a large number of unpaid volunteers augmented by a small cadre of paid staff.
5. Respondent is a resident of the State of New York, County of Putnam.
6. Respondent is engaged in the business of breeding "Maltese" canines, an operation

which she conducts from her home at 1241 Peekskill Hollow Road, in the Town of Kent.

7. On July 9, 06, one of Nelson's prospective purchasers proceeded to Nelson's house in order to inspect the environment in which the dogs were raised. He found that there was no one at home. Peering through a window, the purchaser observed puppies covered with feces and urine jammed into small cages on a 95 degree day with no food or water. The dwelling was littered with debris, urine and feces. The purchaser notified the police, who initiated an investigation. The police entered the Nelson home and seized all eleven of the dogs that were present including three unborn puppies.

8. On or about July 10, 06, Nelson was arrested and charged with eleven counts of cruelty to animals and animal neglect based on allegations that she left the house for three days leaving her animals without food or water. The charges against Respondent are now pending in the Town of Kent Justice Court.

9. The police placed the seized animals in the care and custody of the Putnam County Humane Society, the only animal shelter in Putnam County. Respondent is the owner of the seized animals, and the animals were in her custody at the time they were seized. Also seized were three unborn puppies.

10. The shelter arranged for Nelson's animals to be examined by a veterinarian who reported that each of the seized animals was suffering from dehydration and bore other signs of abuse.

11. From July 10, 06 to the present day, Plaintiff has performed services for Respondent consisting of sheltering, feeding, watering, exercising and furnishing veterinary care to Nelson's animals.

12. As a result of the services rendered to Respondent's animals, there was due and owing

from Plaintiff to Defendant as of August 31, 07, the sum of \$66,081.34, broken down as follows:

Board for 11 small dogs housed in groups: - @ \$10/day for 11 dogs for 418 days = \$45,980

Veterinary examinations for all dogs, July 10, 2006 = \$451

Veterinary examinations for all dogs, Nov. 3, 06 = \$451

Veterinary examinations, June 7, 07 = \$419.60

Antibiotic treatment and medications for all dogs = \$488.85

Ear cleaning two times a week for all dogs for 23 weeks; 1 time a week for 30 weeks = \$8,360.

Rabies vaccine for all dogs = \$275

Distemper /parvo vaccine = \$275

Bordatella vaccine for all dogs = \$275

Heartworm/lyme/ ehrlichia three way snap test for all dogs = \$462

Canine spay for ten dogs = \$2,120

Canine neuter for one dog = \$168

Dentistry tooth extraction, Nov. 8, 06 = \$952.89 (Peggy)

CBC/chem panel on Paddy Aug. 8, 06 = \$41

Dentistry tooth extraction for Paddy = \$613

Anal sac abscess Paddy Feb. 28, 07 = \$74

Deworming - 11 dogs = \$1017

Bathing/grooming of fesces matted coats/nails monthly, all dogs = \$1,980.

Professional assisted grooming, Nov. 1, 06, 11 dogs @ \$25/dog = \$275

Professional grooming - \$40/dog = \$440.

Flea/tic preventative monthly for all dogs for nine months = \$963

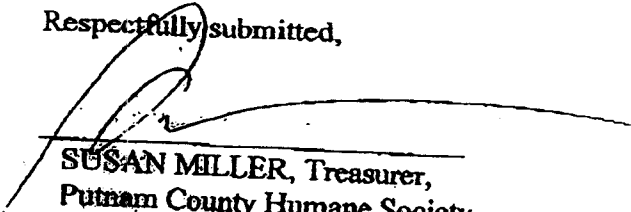
13. From August 31, 07, the Putnam County Humane Society has continued to render services to Respondent. Payment of the sums due as of August 31, 07 has been duly demanded by Petitioner, but Respondent has not paid any part of the sums owing to Petitioner for the services rendered to her dogs.

14. Section 373 of the Agriculture & Markets Law authorizes a duly incorporated Humane Society caring for abused animals seized by the police to petition a court for an order directing the owner of the seized animals to post security for payment to the Society of the Society's fees and expenses for caring for the seized animals.

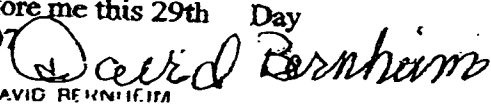
15. The eleven seized animals are purebred maltese puppies. Respondent states that each of the canines has a market value of \$3,000 to \$4,000. The Society concurs with Respondent's assessment. The amount presently owing to the Society is \$66,081.34. Accordingly, the only Court that has jurisdiction to entertain the instant Petition is the Supreme Court of the State of New York.

WHEREFORE, Petitioner respectfully requests that the Court grant an Order directing Respondent to post security in the sum of \$66,081.34 for payment of the expenses of the Putnam County Humane Society in caring for Respondents eleven seized animals and three after born puppies.

Respectfully submitted,

  
SUSAN MILLER, Treasurer,  
Putnam County Humane Society,  
PETITIONER

Sworn to before me this 29th Day  
of October, 07

  
DAVID BERNHEIM  
Notary Public, State of New York  
No. 028500-9267

Qualified in Westchester Co.  
Commission Expires April 29, 2011

## VERIFICATION OF PETITION

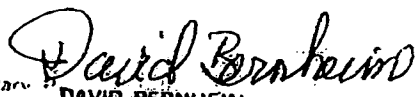
STATE OF NEW YORK )  
COUNTY OF WESTCHESTER )ss:

SUSAN MILLER, being duly sworn, deposes and says:

I am the Petitioner herein. I have read the foregoing Petition. I know the contents thereof, and the same is true to my knowledge, except as to those matters therein stated to be upon information and belief, and as to those matters, I believe them to be true.

  
SUSAN MILLER

Sworn to before me this 29<sup>th</sup>  
day of October, 07

  
DAVID BERNHEIM  
Notary Public, State of New York  
No. 02885059465  
Qualified in Westchester County  
Commission Expires April 29, 2011

Index No. \_\_\_\_\_ Year \_\_\_\_\_  
SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF PUTNAM

THE PUTNAM COUNTY HUMANE SOCIETY,

Petitioner,

-against-

LINDA NELSON,

Respondent.

PUTNAM COUNTY  
CLERK  
2007 OCT 30 PM 2:55

**NOTICE OF PETITION AND PETITION**

DAVID BERNHEIM  
Attorney for Plaintiff  
Office and Post Office Address, Telephone  
PO BOX 248  
6 EAST MT. AIRY RD.  
CROTON ON HUDSON, N.Y. 10520  
(914) 271 6323

To  
Attorney(s) for

Service of a copy of the within  
admitted.

is hereby

Dated,

Attorneys for

Please take notice

that the within is a (certified) true copy of a

document filed in the office of the clerk of the within named court on

2003

for settlement to the HON.

of which the within is a true copy will be presented  
one of the judges of the with-



SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF PUTNAM

THE PUTNAM COUNTY HUMANE SOCIETY,

Plaintiff,

-against-

LINDA NELSON,

Defendant.

Date Filed:

Index No. 2781/07  
SUMMONS

Basis of Venue  
Defendant's Residence  
1241 Peekskill Hollow Road,  
Kent, New York 10512

To The Above Named Defendant:

**YOU ARE HEREBY SUMMONED**, to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with its summons, to serve a notice of appearance, on the Plaintiff's Attorney within 20 days of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

Dated: Croton on Hudson, New York  
October 29, 07

*David Burstein*  
DAVID BURSTEIN

Attorney for Plaintiff  
6 East Mt. Airy Rd.  
Croton on Hudson, NY 10520

Defendant's Address  
1241 Peekskill Hollow Road  
Kent, New York 10512

PUTNAM COUNTY  
CLERK  
OCT 30 PM 12:00

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF PUTNAM

THE PUTNAM COUNTY HUMANE SOCIETY,

Plaintiff,

against-

Index No.

LINDA NELSON,

Verified Complaint

Defendant.

Plaintiff, for its verified complaint, alleges as follows:

GENERAL

1. Plaintiff is a private, not for profit corporation organized pursuant to the Laws of the State of New York.
2. Plaintiff operates a shelter caring for abused, neglected, abandoned and lost animals in the County of Putnam.
3. Plaintiff is not a governmental agency.
4. Defendant Linda Nelson is a resident of the State of New York, County of Putnam.

AS AND FOR A FIRST CAUSE OF ACTION

5. Plaintiff is engaged in the business of breeding "Maltese" canines, an operation which she conducts from her home at 1241 Peekskill Hollow Road, in the Town of Kent, County of Putnam.
6. On July 9, 06, a prospective purchaser of Nelson's dogs, proceeded to Nelson's residence in order to inspect the environment in which the dogs were raised. Nelson was not present. He observed puppies covered with feces and urine jammed into small cages on a 95 degree day with no water. The dwelling was littered with debris, urine and feces. The

PUTNAM COUNTY  
CLERK

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7. On or about July 10, 06, Nelson was arrested and charged with eleven counts of cruelty to animals and animal neglect. Her case is presently pending in the Town of Kent Justice Court.

8. The police placed the seized animals in the care of the Putnam County Humane Society, the only animal shelter in Putnam County. The shelter arranged for Nelson's animals to be examined by a veterinarian who reported that each of the seized animals were suffering from dehydration and bore other signs of abuse.

9. From July 10, 06 to the present day, Plaintiff has performed services for Defendant consisting of sheltering, feeding, watering, exercising and furnishing veterinary care to Nelson's animals.

10. As a result of the services rendered to Defendant's animals, there was due and owing from Plaintiff to Defendant as of August 31, 07, the sum of \$66, 081.34, broken down as follows:

Board for 11 small dogs housed in groups: - @ \$10/day for 11 dogs for 418 days = \$45, 980

Veterinary examinations for all dogs, July 10, 2006 = \$451

Veterinary examinations for all dogs, Nov. 3, 06 = \$451

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Professional assisted grooming, Nov. 1, 06, 11 dogs @ \$25/dog = \$275

Professional grooming - \$40/dog = \$440.

Flea/tic preventative monthly for all dogs for nine months = \$963

Since August 31, 07, Plaintiff has continued to render services to Defendant's dogs for which additional payments are due.

11. Payment has been duly demanded but Defendant has not paid any part of the sums owing to Plaintiff for the services rendered to her dogs.

12. No contract exists between Plaintiff and Defendant, but Plaintiff is entitled to payment for the services rendered pursuant to the doctrine of quantum meruit.

13. At present, Defendant is not entitled to the return of her dogs. If she ever becomes entitled to the return of her dogs, Plaintiff has a right to retain the animals until such time as Plaintiff has been paid in full the sums Plaintiff owes Defendant.

**AS AND FOR A SECOND CAUSE OF ACTION**

14. Repeat and reallege paragraphs "1" through "13" with the same force and effect as if

~~set forth herein in full.~~

15. Plaintiff is entitled to payment from Defendant in the sum of \$66,081.34 for services rendered up to August 31, 07, and for charges for services rendered from August 31, 07 to date, as provided in Sections 373 and 374 of the N.Y. Agriculture & Markets Law.

**AS AND FOR A THIRD CAUSE OF ACTION**

16. Repeat and reallege paragraphs "1" through "15" with the same force and effect as if set forth in full herein.

17. Defendant has neglected her eleven Maltese canines and three after born puppies by keeping them confined in small cages filled with feces and urine and without food or water for a period of three days. Defendant has committed acts of cruelty towards her eleven Maltese canine and three after born puppies by keeping them confined in small cages filled with feces and urine and without food or water for a period of three days. Therefore she should be divested of all title and interest in the aforesaid canines.

WHEREFORE, Plaintiff demands judgment against Defendant on the first cause of action in such sum as the Court shall determine to be reasonable; and Judgment against Defendant on the second cause of action in such amount as the Court shall determine to be reasonable; and Judgment on the third cause of action divesting Defendant all right title and interest in the aforesaid canines, together with interest and the costs and disbursements of this action.

Yours, etc.

  
DAVID BERNHEIM

**Dated: Croton on Hudson, NY**  
**October 29, 07**

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## VERIFICATION

STATE OF NEW YORK )  
COUNTY OF WESTCHESTER )ss:

DAVID BERNHEIM, an attorney admitted to practice in the Courts of the State of New York, affirms under penalty of perjury:

I am the attorney for the plaintiff in the above entitled proceeding. I have read the foregoing complaint. I know the contents thereof, and the same is true to my knowledge, except as to those matters therein stated to be upon information and belief, and as to those matters, I believe them to be true. The reason that this Complaint is verified by me rather than by the plaintiff is because the plaintiff resides in a different County than the County in which my office is located.

  
DAVID BERNHEIM

Duly affirmed this 29th  
day of November, 2007

~~Index No.~~ ~~Year~~  
SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF PUTNAM

THE PUTNAM COUNTY HUMANE SOCIETY,

Petitioner,

-against-

LINDA NELSON,

Respondent.

PUTNAM COUNTY  
CLERK  
2007 OCT 30 PM 2:44

**SUMMONS AND VERIFIED COMPLAINT**

DAVID BERNHEIM  
*Attorney for Plaintiff*  
*Office and Post Office Address, Telephone*  
6 EAST MAIN RD.  
CROTON-HARMON, N.Y. 10520  
(914) 771-6323

To  
*Attorney(s) for*

Service of a copy of the within  
admitted.

is hereby

Dated,

*Attorneys for*

Please take notice

~~NOTICE OF ENTRY~~

that the within of the a (certified) true copy of a  
duly entered in the office of the clerk of the within named court on

2003

~~NOTICE OF SETTLEMENT~~

that an order  
for settlement to the HON.

of which the within is a true copy will be presented  
one of the judges of the with-